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REMARKS

Reconsideration of the final rejection is requested in view of the remarks below.

Rejection of claims 1-7 and 9-20

Claims 1-7 and 9-20 stand rejected under 35 USC § 103(a) as being obvious from

Corbin U.S. Patent No. 5,138,712 in view of McGuire et al. U.S. Patent No. 6,493,871.

Applicant respectfully traverses the rejection and requests reconsideration.

The present invention is directed to a method and system, in the form of a

computer program product having source code storable on a program storage device, to

install licensed software on a client or end user's personal computer by a scripted network

installation routine and to verify that the end user has a valid license to install the software.

Independent claims 1, 18, 19 and 20 specify that the software on the network computer

program storage device and which is downloaded is software selected from the group

consisting of; 1) programs to be executed by the end user's computer and 2) database

information. Claim 3, dependent on claim 1, and independent claim 9 specifies that the

software comprises programs for execution on end user computers. Independent claim 13

is directed to software that comprises damaged executable software program for execution

on end user computers. Thus, each and every independent claim is directed to verifying

licensing, and then downloading from a network computer and installing to the end user's

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computer software which comprises either <u>programs to be executed by the end user's</u> <u>computer</u> or <u>database information.</u>

As the Examiner has recognized, "Corbin doesn't explicitly disclose, software selected from the group consisting or [sic; of] programs to be executed by the end user's computer and database information." Office Action, page 3. Instead, the Corbin patent teaches a system in which, at the time the license is checked, the executable software applications to be used are already present on the computer storage device on which they are to be executed. See, Corbin column 6, lines 35-56. ("The licensing library 24 is a set of library routines which enable the application 26 to request licensing service from the license server 20. ... The application is installed and linked to the licensing library using standard operating system utilities of the agent executing the licensing library and the application.") When the already-installed application is to be executed, it is a license token, and not the application, which is downloaded from the license server. See, Corbin Fig. 3 and column 7, lines 46 to column 8, line 25. ("Applications 41, 42 and 43 are shown requesting licensing service from the license server 44. When a customer purchases a license for an application, ... the software vendor creates a license token with a license production tool, and delivers the license token to the customer's network administrator. ... The license sever is now ready to entertain requests from application 41, 42 and 43 for a license to use the application corresponding to token 46 as well as other applications represented in database 46.")

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The Examiner has newly cited the McGuire patent, and has taken the position that McGuire at column 7, lines 47-52 discloses "update data and database" (Office Action, page 3) and that applicant's invention would be obvious to one of ordinary skill in the art from the combination of Corbin and McGuire. However, a full reading of McGuire reveals that it does not *prima facie* render applicant's invention obvious.

The McGuire patent is owned by Microsoft and is directed to an improved method for downloading updates for software programs already installed on a client computer. As stated in column 7, lines 28-56:

> [T]he client computer first downloads from a setup server 76 an initial startup package 80, which includes a setup program 82 and information 84 regarding files which are potentially required for installing the revised software product. ... Based on the installation information and the existing files, the setup program 82 determines which files are needed to add to or update the existing files to provide the set of installation files, and compiles a "needed files" list. ... The download server 70 maintains a database of update data 92 for the software product that can be downloaded upon request. When the download server 70 receives the download request, it compares the list of needed files with available update data, and returns update files 96 to the client. After receiving the download reply, the setup program uses the files in the download reply to update the existing files to generate on the client computer the required installation files. The desired

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revised version of the software product is then installed on the client
computer.

Thus, McGuire's method uses a setup program requested by, and installed on, the
client computer to scan and request only the updated files needed to be downloaded from
the server, and not the entire program. The McGuire server or network computer: 1) does
nothing to contact the client or end user computer to determine its identifier and verify that
the end user is listed in the network computer's database as licensed to run the software,
and 2) does not actually install the downloaded software, since this is done by the client or
end user computer. Accordingly, one of ordinary skill in the art would not even look to
combine the teachings of Corbin and McGuire since the former downloads only a license
token and the latter does not use a network computer to check for a license and install the
actual program or database information. Even presuming that one would combine the two
disclosures, one of ordinary skill in the art would still not arrive at the instant invention as
defined in claims 1-7 and 9-20 since neither Corbin nor McGuire use a network computer
to check for a license before itself installing a program to be executed by the end user's
computer or database information.

Rejection of claim 8

Claim 8 stands rejected under 35 USC § 103(a) as being obvious from Corbin in
view of the newly cited McGuire patent and further in view of Bartholomew U.S. Patent
No. 6,202,209. Applicant's claim 8, dependent on claim 1, specifies that the end user

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computer program storage device contains a damaged version of the software to be

downloaded, and that the installation of said software corrects the damaged software. For

the reasons discussed above in connection with claim 9, the hypothetical combination of

Corbin's download of only a license token to an already-installed software application, and

McGuire's use of a setup program already installed at the end user's computer, with no

license verification, does not disclose or suggest applicant's claimed downloading of the

entire executable software program to replace a damaged version of the executable

software. Bartholomew is directed to a PCMCIA personal information device, and not to

downloading of licensed software. Bartholomew's disclosure does not correct the

deficiency of the Corbin and McGuire references, and therefore the hypothetical

combination does not arrive at applicant's invention as specified in claim 8.

It is respectfully submitted that the application has now been brought into a

condition where allowance of the entire case is proper. Reconsideration and issuance of a

notice of allowance are respectfully solicited.

Respectfully submitted,

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